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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/553,452	04/19/2000	Earl D. Koch	P3094	3887
23452	7590	05/19/2004	EXAMINER	
			BEACH, THOMAS A	
PATENT DEPARTMENT		ART UNIT		PAPER NUMBER
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.				3671
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BLOOMINGTON, MN 55431				
DATE MAILED: 05/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/553,452	KOCH, EARL D.
	Examiner	Art Unit
	Thomas A Beach	3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on appeal brief filed on 1/05/04.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 25-37,39 and 42-48 is/are pending in the application.
- 4a) Of the above claim(s) 28,31,33,37 and 42-48 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 25-27,29,30,32,35,36 and 39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. In view of the appeal brief filed on January 5, 2004, PROSECUTION IS HEREBY REOPENED. The new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 25, 32, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Rech 4,373,306. Rech shows a temporary ramp adapted for use on roadways under construction capable of being placed adjacent to an elevated obstruction located in the roadway having an assembly of a plurality of individual, adjacently disposed, removably

interlocking first ramp segments that include an lower surface which contacts the roadway when installed (4, figure 1); an upper inclined surface that inclines downwardly from a first edge to a second; and opposing side edges (6/7) having complimentary coupling formations for adapted to removably interlock with another side edge where in use the first ramp segment are positionable adjacent the obstruction located in the roadway for allowing vehicles traveling the roadway to ride up and over the elevated obstruction. As concerns claim 32, Rech shows the first ramp segments made of an elastomeric material (col. 1, lines 15-20) and as concerns claim 35, Rech shows the first segments having opening for receiving fasteners to secure the segments (6, 7).

4. Claims 25, 32, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Herman et al 5,777,266. Herman shows a temporary ramp adapted for use on roadways under construction capable of being placed adjacent to an elevated obstruction located in the roadway having an assembly of a plurality of individual, adjacently disposed, removably interlocking first ramp segments that include an lower surface which contacts the roadway when installed (50, figures 1-5); an upper inclined surface that inclines downwardly from a first edge to a second; and opposing side edges (70) having complimentary coupling formations for adapted to removably interlock with another side edge where in use the first ramp segment are positionable adjacent the obstruction located in the roadway for allowing vehicles traveling the roadway to ride up and over the elevated obstruction. As concerns claim 32, Herman shows the first ramp segments made of an elastomeric material (abstract) and as

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concerns claim 35, Herman shows the first segments having opening for receiving fasteners to secure the segments (66, 68).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rech 4,373,306 or Herman et al 5,777,266 in view of Barnowski 5,535,470. Rech and Herman do not disclose the specific ramp slope of at least approximately 1:20; however, Barnowski discloses that such a slope, 1:12 to 1:20, is "conventional" and thus notoriously well known in the art (col. 1, lines 44-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rech or Herman, as taught by Barnowski, to include a common conventional slope of 1:20 to provide a ramped angle this is functionally tested over time as being proper to elevate a vehicle over an obstruction.

As concerns claim 27, the combination shows in figure 1 of Rech and figures 2 and 6 of Herman the segments capable of transitioning a linear obstruction since the segments are also shown to be rectangular.

7. Claims 29, 30, 36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rech 4,373,306 or Herman et al 5,777,266 and Barnowski 5,535,470

in view of Haskins 5,535,470. Rech and Herman both show a plurality of second ramp segments, element 1 of Rech & element 10 of Herman, both having lower surface and an upper inclined surface that inclines downwardly from a first edge to a second where adjacent segments share a similar height; and opposing side edges having complimentary coupling formations for adapted to removably interlock with another side edge where in use the first ramp segment are positionable adjacent the obstruction located in the roadway for allowing vehicles traveling the roadway to ride up and over the elevated obstruction. However, the combination above does show a first segment having a slope of 1:20 but does not show first and second segment both having a slope of at least approximately 1:20. Haskins shows a similar plurality of segments that make up a ramp for roadway (wheelchairs are certainly a type of vehicle/mode of transportation) use having first and second segments 4, 5, 6, and 7 sharing a slope (Figures 5-8 and 10-13). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination, as taught by Haskins, to include first and second segment of the slope segment to reduce size and transportation costs of large segments while maintaining a sturdy ramp (Haskins; col. 2, lines 29-46).

As concerns claim 30, the combination shows a linear surface and rectangular segments (figure 1 of Rech and figure 1 of Herman) to form a ramp. As concerns claim 32, the combination shows. As concerns claim 36, the combination (Herman) shows the first ramp segments made of an elastomeric material (abstract) and as concerns claim 39, the combination (Herman) shows the first segments having opening for receiving

fasteners to secure the segments (66, 68) or as concerns claim 32, the combination (Rech) shows the first ramp segments made of an elastomeric material (col. 1, lines 15-20) and as concerns claim 35, the combination (Rech) shows the first segments having opening for receiving fasteners to secure the segments (6, 7).

Response to Arguments

8. Applicant's arguments with respect to claims 25-27, 29, 30, 32, 35, 36 and 39 have been considered but are moot in view of the new ground(s) of rejection. The claims set forth a combination of plurality of ramps that are capable of being place next to an obstruction and not the combination of the ramp and the roadway and obstruction. Regarding Rech, the argument that this arrangement of structure is only for an airplane runways or factory yards is unconvincing since the reference clearly says "for example" not "limited to".

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 703.305.4848. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703.308.3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 or 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

Thomas A. Beach

May 10, 2004


Thomas B. Will
Supervisory Patent Examiner
Group 3600